

YEAS—19.

Buchanan,
Chesley,
Collins,
Farrar,
Fleming,
Fowler,
Gibbs,

Gooch,
Houston,
Jones,
Kleberg,
Matlock,
Patton,

Peacock,
Randolph,
Shannon,
Stratton,
Terrell,
Traylor.

YEAS—5.

Evans,
Geizendaner,

Johnson of Collin,
Martin.

Perry.

Senate bill No. 8, "An act to repeal the fourth section of an act entitled 'an act defining who are officers in this State, and prescribing their rights, powers, duties and privileges,' approved February 15, 1881," was taken up in regular order, with majority and minority reports.

Senator Houston moved a call of the Senate.

Call sustained.

Roll called. Senate full.

Senator Davis moved to adopt the minority report.

(Senator Gooch in the chair.)

Senate bill No. 8 discussed.

(President in the chair.)

The President gave notice of his signing Senate bill No. 17, entitled "An act to repeal an act entitled 'an act granting to persons who have been permanently disabled by wounds received while in the service of this State, or of the Confederate States, a land certificate for 1280 acres of and.'"

And Senate bill No. 58, entitled "An act amending article 4000 of the Revised Civil Statutes."

The President referred House bill No. 340, entitled "An act making an appropriation for the deficiency in the amount appropriated for public printing for the year beginning February, 1882, and ending February 28, 1883," to the Committee on Finance.

Senator Randolph introduced the following resolution:

WHEREAS, The Legislature is in the midst of the session without any official report from the Comptroller's office; and,

WHEREAS, Numerous bills and joint resolutions are under consideration, proposing to increase the expenditures of government, and to affect the collection of taxes; and,

WHEREAS, Without the Comptroller's report, which is necessary as a basis for estimates and calculations in making appropriations and fixing the rate of taxation; therefore,

Resolved, That the Senate, without a knowledge of the cause of the delay in the presentation of this report at this and previous sessions of the Legislature, and without the intention of reflecting upon any official or State department, declares this delay to be an obstruction of the public business that requires explanation and a remedy; and,

Resolved, further, That the Committee on Public Printing inquire into this matter, and report to the Senate the result of their inquiries, and what legislation, if any, is necessary in the premises.

Referred to the Committee on Public Printing.

Senator Terrell, Chairman of Judiciary Committee No. 1, by leave, submitted the following report:

COMMITTEE ROOM,
AUSTIN, February 5, 1883.

Hon. Marion Martin, President of the Senate:

Your Judiciary Committee No. 1 have considered Senate bill No. 183, and instruct me to report the same back with a substitute, and to recommend that the substitute do pass.

The object of the bill is to provide the continuance for two years from October 1, 1883, of "the Commission of Appeals of the State of Texas."

TERRELL, Chairman

Bill read first time with substitute.

Senator Chesley, for Judiciary Committee No. 1, by unanimous consent, submitted the following report:

COMMITTEE ROOM,
AUSTIN, February 5, 1883

Hon. Marion Martin, President of the Senate:

Your Judiciary Committee No. 1, to whom was referred Senate bill No. 212, being a bill entitled "An act to amend articles 1213,

1215 and 2389, of the Revised Civil Statutes of the State of Texas," have considered the same, and a majority of the committee instruct me to report the same back with the recommendation that it do pass.

CHESLEY, for Committee.

Bill read first time.

On motion of Senator Perry, Senator Pfeuffer was excused on account of important business.

On motion of Senator Perry, the Senate adjourned until 10 o'clock to-morrow morning.

TWENTY-FOURTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, February 6, 1883. }

Senate met pursuant to adjournment.

Lieutenant-Governor Martin in the chair.

Roll called. Quorum present.

Prayer by the Chaplain.

On motion of Senator Peacock, the reading of the journal was dispensed with, and the same adopted.

On motion of Senator Martin, Senator Harris was excused for absence yesterday, on account of important business.

Senator Fleming presented a petition from the citizens of Taylor county, requesting the Legislature to pass a constitutional amendment prohibiting the importation, sale and manufacture of intoxicating liquors, as a beverage, in Texas, to be submitted to the people for their adoption, etc.

Referred to the Committee on Constitutional Amendments.

Also, petition from citizens of Howard county, to be formed into a new land district, etc.

Referred to the Committee on Public Lands.

Senator Martin, chairman of Committee on Engrossed Bills, submitted the following report:

COMMITTEE ROOM,
AUSTIN, February 6, 1883.

Hon. Marion Martin, President of the Senate:

Your Committee on Engrossed Bills have carefully examined and compared Senate bill No. 66, being "An act confirming patents and surveys by virtue of headright and bounty warrants, issued under special laws enacted after March 31, 1870, and prior to April 17, 1876."

Also, Senate bill No. 151, being "An act to amend chapter 2, title 8, of the Penal Code of the State of Texas, by adding thereto article 198a."

Also, Senate bill No. 152, being "An act to amend chapter 4, title 12, of the Penal Code, by adding thereto articles 403a, 403b, and 403c."

Also, Senate bill No. 177, being "An act to amend article 575, chapter 3, title 20, of the Revised Statutes, by adding thereto section 9," and find the same correctly engrossed.

MARTIN, Chairman.

Senator Patton, for Judiciary Committee No. 2, submitted the following report:

COMMITTEE ROOM,
AUSTIN, February 6, 1883.

Hon. Marion Martin, President of the Senate:

Your Judiciary Committee No. 2, to whom was submitted Senate bill No. 10, entitled "An act to repeal an act entitled 'an act to prescribe the requisites of indictments in certain cases,' approved March 26, 1881, except as to indictments and criminal prosecutions pending at the time this act takes effect," and the question as to what effect the repeal of the act approved March 26, 1881, entitled "An act to prescribe the requisites of indictments in certain cases," would have upon our penal laws, respectfully present that the question depends entirely upon the effect which the enactment of said statute had upon said laws, and that, in the opinion of the committee, neither the penal laws of the State, nor article 420 of the Code of Criminal Procedure, prescribing the requisites of indictments, were repealed, either in whole or part, by the passage of said act, and, consequently, that the repeal of said act would neither affect our penal laws nor procedure.

1. The law in question is a general law, prescribing the forms of indictments in contradistinction with the special statutes defining offenses, as homicides, theft, etc., and, under the rules of construc

tion of statutory law, "the mere specific provision controls the general one," or, in other words, a thing given in particular shall not be taken away by general words, and the rule does not depend upon the priority of the acts. (Bishop on Criminal Law, Vol. 1, Art. 778.)

Sedgwick, in his treatise on "Statutory and Constitutional Law," on page 123, after laying down the same rule of construction, says: "The reason and philosophy of the rule is, that when the mind of the legislator has been turned to the details of the subject, and he has acted upon it, a subsequent statute in general terms, or treating the subject in a general manner, and not expressly contradicting the original act, shall not be considered as intended to affect the more particular or positive previous provisions, unless it is absolutely necessary to give the latter act such a construction in order that its words shall have any meaning at all." And your committee submit that, while some of the forms prescribed in the said act of 1881 fail to set forth the essential and distinguishing feature of some of the offenses therein sought to be described, yet they contain no averments contradictory of, or repugnant to, the particular statutes defining the several offenses in said forms assumed to be described. Again, the question is not without judicial decision in the courts of our own State. Judge Hurt, in the case of *Huntsman vs. State* (12 Court Appeals, page 637), a case which decides one of those forms for indictment to be insufficient in the requirements of the Constitution and bill of rights, quotes approvingly from an opinion of Chief Justice Peck, rendered in case of *Bryan vs. State*, reported in 45 Ala., in which he declares that the form should not be set up above the statute. Your committee further submit that in so far as the said statute is repugnant to article 420 of the Code of Criminal procedure, it is unconstitutional in this, that it does not give to the defendant proper notice of the nature of the accusation against him, and Justice Hurt, in the opinion above quoted, says:

"It is not, therefore, within the scope of legislative authority, under our Constitution, to provide for the conviction of the accused for a crime which is not embraced within the allegations of the indictment on which he is tried, and it makes no difference what form the legislation for such purposes may assume, it must be void."

We therefore conclude that the said act, in so far as it is repugnant to the statutes defining offenses, and in so far as it prescribes forms of indictment for offenses, the allegations of which do not set forth the essential ingredients of such offenses, is void, and, being void, it had no repealing effect upon the statute then in force, for "a repealing clause in a constitutional statute declaring that all laws contravening the provisions of this act be and the same are hereby repealed, does not affect the previous laws." (*Simis vs. State*, 26 Ala., 165.) And in so far as the act is constitutional it does not conflict with the previous statutes in force at the time of its passage. Hence that the said act of 1881 did not materially change or modify our Criminal Code of Procedure, and has only served as a pretext for the defective pleading of unskillful district and county attorneys in the past, and can only serve to mystify rather than simplify our rules of pleading in the future, and they recommend its repeal, and that said bill do pass.

All of which is respectfully submitted.

PATTON, for Committee.

Bill read first time.

Senator Gooch, chairman of Judiciary Committee No. 2, submitted the following reports:

COMMITTEE ROOM,
AUSTIN, February 6, 1883.

Hon. Marion Martin, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate bill No. 270, entitled "An act to amend the Penal Code so as to provide for the punishment of those who intentionally pull the bell cord of a railway train while the same is in motion," have carefully examined the same, and instruct me to report the same back with the recommendation that it do pass.

All of which is respectfully submitted.

GOOCH, Chairman.

Bill read first time.

COMMITTEE ROOM,
AUSTIN, February 6, 1883.

Hon. Marion Martin, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate bill No. 28, entitled "An act to amend article 1952, chapter 2, title 15, of the Code of Criminal Procedure," have carefully examined the same, and instruct me to report the same back with the recommendation that it do not pass, as the fees are regarded as sufficient. The bill proposes to increase the fees of district attorneys.

All of which is respectfully submitted.

GOOCH, Chairman.

Bill read first time.

COMMITTEE ROOM,
AUSTIN, February 6, 1883.

Hon. Marion Martin, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate bill No. 204, entitled "An act to amend article 684, of chapter 3, title 17, of the Penal Code," have carefully examined the same, and instruct me to report the same back with the recommendation that it do not pass, because a bill upon the same subject, more desirable, has been reported upon favorably. The bill has relation to pulling down fences.

All of which is respectfully submitted.

GOOCH, Chairman.

Bill read first time.

COMMITTEE ROOM,
AUSTIN, February 6, 1883.

Hon. Marion Martin, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate bill No. 197, entitled "An act to amend article 4298, of Revised Civil Statutes," have carefully examined the same, and instruct me to report the same back with the recommendation that it be referred to Judiciary Committee No. 1.

All of which is respectfully submitted.

GOOCH, Chairman.

Bill read first time.

COMMITTEE ROOM,
AUSTIN, February 6, 1883.

Hon. Marion Martin, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate bill No. 203, entitled "An act to prevent the pendency of more than one criminal prosecution for the same offense," have carefully examined the same, and instruct me to report the same back with the recommendation that it do not pass, because the law as it now is is deemed sufficient.

All of which is respectfully submitted.

GOOCH, Chairman.

Bill read first time.

COMMITTEE ROOM,
AUSTIN, February 6, 1883.

Hon. Marion Martin, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate bill No. 214, entitled "An act to protect the enclosed lands of any person from trespass, by shooting, hunting, fishing or fowling," have carefully examined the same, and instruct me to report the same back with the recommendation that it do not pass, because another bill upon the same subject has been reported upon favorably.

All of which is respectfully submitted.

GOOCH, Chairman.

Bill read first time.

COMMITTEE ROOM,
AUSTIN, February 6, 1883.

Hon. Marion Martin, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate bill No. 213, entitled "An act to amend articles 358, 364, 365 and 366, chapter 3, title 10, of the Penal Code," have carefully examined the same, and instruct me to report the same back with the recommendation that it do not pass, because the penalty prescribed is too severe. It proposes imprisonment in the penitentiary for certain gaming.

All of which is respectfully submitted.

GOOCH, Chairman.

Bill read first time.

COMMITTEE ROOM,
AUSTIN, February 6, 1883.

Hon. Marion Martin, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate bill No. 51, entitled "An act to amend article 426 of the Penal Code," have carefully examined the same, and instruct me to report the same back with the recommendation that it do not pass, because the law now is sufficient. It relates to a change in the game law.

All of which is respectfully submitted.

GOOCH, Chairman.

Bill read first time.

COMMITTEE ROOM,
AUSTIN, February 6, 1883.

Hon. Marion Martin, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate bill No. 196, entitled "An act to regulate the compensation of county

attorneys in certain cases," have carefully examined the same and instruct me to report the same back with the recommendation that it do not pass, because the Constitution restricts compensation to fees.

All of which is respectfully submitted.

GOOCH, Chairman.

Bill read first time.

COMMITTEE ROOM,
AUSTIN, February 6, 1883.

Hon. Marion Martin, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate bill No. 173, entitled "An act to regulate the compensation of sheriffs and constables for carrying attached witnesses in felony cases," have carefully examined the same, and instruct me to report the same back with the recommendation that it do not pass. The present law is believed to be preferable.

All of which is respectfully submitted.

GOOCH, Chairman.

Bill read first time.

COMMITTEE ROOM,
AUSTIN, February 6, 1883.

Hon. Marion Martin, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate bill No. 153, entitled "An act to amend article 194, chapter 1, title 8, of the Penal Code of the State of Texas," have carefully examined the same, and instruct me to report the same back with the recommendation that it do not pass, because it is deemed unwise to diminish the punishment for the crime of perjury, by placing it at a fine, absolutely or in the alternative.

All of which is respectfully submitted.

GOOCH, Chairman.

Bill read first time.

COMMITTEE ROOM,
AUSTIN, February 6, 1883.

Hon. Marion Martin, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate bill No. 144, entitled "An act to amend article 1106, chapter 4, title 15, Code of Criminal Procedure," have carefully examined the same, and instruct me to report the same back with the recommendation that it do not pass, because the law, as it now is, upon that subject is deemed sufficient.

All of which is respectfully submitted.

GOOCH, Chairman.

Bill read first time.

COMMITTEE ROOM,
AUSTIN, February 6, 1883.

Hon. Marion Martin, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate bill No. 119, entitled "An act to repeal article 91 of the Penal Code," have carefully examined the same, and instruct me to report the same back with the recommendation that it lay on the table to await action on the bill removing disqualification of witnesses in criminal cases.

All of which is respectfully submitted.

GOOCH, Chairman.

Bill read first time.

COMMITTEE ROOM,
AUSTIN, February 6, 1883.

Hon. Marion Martin, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate petition No. 26, the same being a petition from the citizens of Washington, in Washington county, have carefully examined the same, and instruct me to report the same back, with the recommendation that no action be taken upon said petition. It proposes to inflict the highest punishment in case the accused shall be under the influence of intoxicating drinks when an offense is committed.

All of which is respectfully submitted.

GOOCH, Chairman.

Senator Houston, by consent, presented a petition from citizens of El Paso county, asking for the passage of a mining law.

Referred to Judiciary Committee No. 2.

Senator Traylor, chairman of the Committee on Claims and Accounts, submitted the following reports:

COMMITTEE ROOM,
AUSTIN, February 6, 1883.

Hon. Marion Martin, President of the Senate:

Your Committee on Claims and Accounts, to whom was referred

Senate joint resolution No. 5, "making an appropriation for the settlement of Robert Wilson's claim," have carefully examined the same, and instruct me to report the same back with the recommendation that it lie on the table, as your committee have had no evidence before them upon which to predicate action, either in favor of or against such joint resolution.

All of which is respectfully submitted.

TRAYLOR, Chairman.

Read first time.

COMMITTEE ROOM,
AUSTIN, February 5, 1883.

Hon. Marion Martin, President of the Senate:

Your Committee on Claims and Accounts, to whom was referred House bill No. 22, entitled "An act to authorize and require the county commissioners' courts of the several counties in this State to provide for the payment of all claims due teachers of public free schools audited as valid claims under acts of the Legislature of Texas, approved August 7, 1876, or April 22, 1879," have carefully examined the same, and instruct me to report the same back with the recommendation that it do pass.

All of which is respectfully submitted.

TRAYLOR, Chairman.

Bill read first time.

Senator Matlock introduced a bill to be entitled "An act to amend the first section of an act entitled 'an act to amend article 4205 of the Revised Civil Statutes of the State of Texas, adopted by the regular session of the Sixteenth Legislature.'"

Referred to Judiciary Committee No. 1.

Senator Davis introduced a bill to be entitled "An act for the relief of persons, firms or associations of persons who have procured license and complied with the law authorizing them to pursue the occupation of liquor dealers, where they have been or may be prevented from pursuing such occupation on account of the adoption of local option, and to make an appropriation therefor."

Referred to Judiciary Committee No. 1.

Senator Chesley introduced a bill to be entitled "An act to amend articles 1007 and 1008 of the Revised Civil Statutes of the State of Texas, approved February 25, 1879."

Referred to Judiciary Committee No. 1.

Senator Chesley offered the following resolution:

WHEREAS, The latest reports in the possession of the Senate of the following officers and departments of government are as follows:

Secretary of State, January 1, 1882.

Comptroller, February 28, 1882.

Deaf and Dumb Asylum, January 1, 1882.

Commissioner of Insurance, Statistics and History, January 1, 1882.

Blind Asylum, January 1, 1882.

Padric View School, March 27, 1882.

Agricultural and Mechanical College, March 25, 1882.

AND WHEREAS, We have no report whatever from the Board of Education; and, whereas, the Constitution requires semi-annual reports from these several departments and institutions to be made to the Governor, and there is no reason to believe that these duties have been neglected or that the Governor has withheld such reports from the printer; and, whereas, a large portion of the present session of the Legislature has already expired, and it is impracticable to legislate intelligently without the information which these reports should contain; therefore, be it

Resolved, That a special committee of three be appointed to ascertain and report at the earliest practicable period the cause of the delay in supplying printed copies of these reports, when we may expect to receive them, and what further legislation or action, if any, is necessary to facilitate their receipt.

On motion of Senator Chesley, the resolution was adopted, and the President appointed on said committee, Senators Chesley, Buchanan and Harris.

Senator Jones introduced a bill to be entitled "An act to provide for the preparation, auditing, tabulation, and presentation for examination by the officers of the United States government, of all such claims, accounts and demands of the State of Texas against the government of the United States as are referred to and provided for in the

act of Congress of the United States, entitled 'an act authorizing the Secretary of the Treasury to examine and report to Congress the amount of all claims of the States of Texas, Colorado, Oregon, Nebraska, California, Kansas and Nevada, and the Territories of Washington and Idaho, for money expended and indebtedness assumed by said States and Territories in repelling invasions and suppressing Indian hostilities, and for other purposes,' approved June 27, 1882, and to make an appropriation therefor."

Referred to Committee on Federal Relations.

Senator Fowler, for Committee on Claims and Accounts, by leave, submitted the following report:

COMMITTEE ROOM,
AUSTIN, February 5, 1883.

Hon. Marlon Martin, President of the Senate:

Your Committee on Claims and Accounts, to whom was referred Senate bill No. 136, entitled "An act to ascertain and liquidate any indebtedness due by the State of Texas for furniture supplied for the State capitol by authority of the act of the Legislature, entitled 'an act to provide for the erection of a capitol of the State of Texas,' approved February 14, 1852," have had the same under consideration, and now beg leave to make the following report:

The object of this bill is to procure the consent of the State for the heirs of Eli Kirk, deceased, to institute suit against the State for the purpose of ascertaining the amount, if any, due them from the State for furniture furnished for the capitol of the State in 1852, and for services rendered and money expended in connection therewith; also, to authorize the court to receive in evidence at the trial of the case, a certain letter and the "vouchers and evidences" submitted to the auditorial board, in the year 1872, by the said heirs."

The amount of the principal and interest claimed by the said heirs on the above account is about fifteen thousand (\$15,000) dollars, and if this bill should become a law they would doubtless recover a judgment against the State for about that sum.

A great many of the "vouchers and evidences" which the bill proposes to make legal evidence could not properly be admitted in evidence in the courts of this State under the rules of evidence now in force, and as they purport to be from twenty-five to thirty years of age, and relate to facts supposed to have transpired about thirty years ago, if made legal evidence the State would not only be rendered powerless to question their genuineness, but also to controvert the facts which they recite.

We are of the opinion, however, that the Legislature is prohibited by sections 56 and 57, of article 3, of the Constitution of this State, from passing this bill, so far as it relates to changing this rule of evidence, no notice of the intention to apply for the passage of a law for that purpose having been made as required by the Constitution.

This claim was before the Legislature in 1856 and in 1859, and a favorable report was made upon it in each of those years by a majority of the committees to which it was referred, but in 1859 there was also a minority report made by five members of the committee against it.

In 1872 it was again before the auditorial board of this State, and it seems, after having been favorably acted upon, the matter was reconsidered by the board and the claims rejected.

There appears to have always been some doubt as to whether this is a just claim against the State, and we think there has been an unreasonable delay on the part of the heirs in presenting the claim for settlement. We cannot say, however, that the claim is not just and that the heirs should not be allowed the principal without interest, if that question should properly come before the Legislature. As no notice of an intention to apply to the Legislature to have the merits of the claim passed upon by the Legislature, the committee do not think the Legislature have any authority, under the sections of the Constitution before referred to, to take any further action in regard to the claim than to pass upon the bill as presented.

We do not believe that the merits of the claim can be determined fairly under the provisions of the bill if it should become a law, and the committee therefore recommend that the bill do not pass.

FOWLER, for the Committee.

Bill read first time.

Senate bill No. 8, entitled "An act to repeal the fourth section of an act entitled 'an act defining who are officers in this State, and prescribing their rights, powers, duties and privileges,' approved February 15, 1881," was taken up as unfinished business.

The motion of Senator Davis to adopt the minority report, which was favorable to the passage of the pending bill, was lost by the following vote:

YEAS—5.

Davis,
Evans,

Fleming,
Matlock,

Stratton.

NAYS—24.

Buchanan,
Chesley,
Collins,
Farrar,
Fowler,
Getzendaner,
Gooch,
Harris,

Houston,
Johnson of Collin,
Johnston of Shelby,
Jones,
King,
Kleberg,
Martin,
Patton,

Peacock,
Perry,
Pfeuffer,
Pope,
Randolph,
Shannon,
Terrell,
Traylor.

Senator Peacock moved the adoption of the majority report, which was unfavorable to the passage of the bill.

Adopted by the following vote, and bill lost:

YEAS—25.

Buchanan,
Chesley,
Collins,
Farrar,
Fowler,
Getzendaner,
Gibbs,
Gooch,
Harris,

Houston,
Johnson of Collin,
Johnston of Shelby,
Jones,
King,
Kleberg,
Martin,
Patton,

Peacock,
Perry,
Pfeuffer,
Pope,
Randolph,
Shannon,
Terrell,
Traylor.

NAYS—5.

Davis,
Evans,

Fleming,
Matlock,

Stratton.

Senator Matlock moved to postpone the pending business to take up substitute for Senate bills Nos. 23, 59, 67, 124 and 154, with regard to the disposition, etc., of the public lands, and make it the special order for Friday next, the ninth inst., after the morning call, etc.

Adopted.

Senator Pfeuffer moved to suspend the regular order of business and take up his motion to reconsider the vote by which the Senate refused to pass Senate bill No. 5 (the Sunday law).

Carried, and the bill was taken up, and vote reconsidered by the following vote:

YEAS—17.

Chesley,
Davis,
Fowler,
Gibbs,
Gooch,
Houston,

Johnston of Shelby,
Jones,
King,
Kleberg,
Patton,
Pfeuffer,

Pope,
Randolph,
Shannon,
Stratton,
Terrell.

NAYS—13.

Buchanan,
Collins,
Evans,
Farrar,
Fleming,

Getzendaner,
Harris,
Johnson of Collin,
Martin,

Matlock,
Peacock,
Perry,
Traylor.

The bill was then passed by the following vote:

YEAS—16.

Chesley,
Davis,
Fowler,
Gibbs,
Houston,
Johnston of Shelby,

Jones,
King,
Kleberg,
Patton,
Pfeuffer,

Pope,
Randolph,
Shannon,
Stratton,
Terrell.

NAYS—14.

Buchanan,
Collins,
Evans,
Farrar,
Fleming,

Getzendaner,
Gooch,
Harris,
Johnson of Collin,
Martin,

Matlock,
Peacock,
Perry,
Traylor.

House bill No. 24, "An act to amend article 1052, title 15, chapter 2, of the Code of Criminal Procedure of the State of Texas," being special order for this hour, was taken up, amendment of Senator Matlock to "strike out \$15 and insert \$10 in section 5," pending.

Senator Traylor moved to postpone the pending bill to take up Senate bill No. 41, "An act to provide for the pay-

ment of fees to county judges, justices of the peace, sheriffs, constables, county and district attorneys, for services rendered in examining courts in felony cases."

Adopted, and bill taken up by suspension of order of business by the following vote:

YEAS—24.

Chesley,	Gibbs,	Patton,
Collins,	Gooch,	Peacock,
Davis,	Harris,	Perry,
Evans,	Johnson of Collin,	Pfeuffer,
Farrar,	Johnson of Shelby,	Shannon,
Fleming,	Jones,	Stratton,
Fowler,	Martin,	Terrell,
Getzendaner,	Matlock,	Traylor.

NAYS—4.

Houston,	Kleberg,	Pope.
King,		

On motion of Senator Davis, the committee substitute for said bill was adopted.

Senator Davis offered the following amendment:

In sixteenth and seventeenth lines, strike out "committing magistrate," and insert "such court."

Adopted.

Senator Traylor offered to amend by striking out section 5.

Lost.

Senator Davis offered to amend by striking out, on page 2, line 6, the word "would," and inserting the word "could."

Adopted.

Senator Fowler offered to amend by striking out the word "five," in the fifteenth line, and inserting the word "ten."

Lost.

Senator Patton offered the following amendment:

In section 5, line 19, of printed bill, insert between the words "indictment" and "of," the words "and conviction."

Senator Gooch moved the previous question, on the bill and amendment.

Motion seconded and main question ordered.

Senator Patton's amendment was lost by the following vote:

YEAS—7.

Harris,	Martin,	Perry,
King,	Patton,	Pfeuffer.
Kleberg,		

NAYS—19.

Buchanan,	Getzendaner,	Peacock,
Chesley,	Gibbs,	Pope,
Collins,	Gooch,	Randolph,
Davis,	Johnson of Collin,	Shannon,
Evans,	Jones,	Stratton,
Fleming,	Matlock,	Traylor.
Fowler,		

Bill ordered engrossed.

Senate bill No. 2, "An act to amend article 3201, chapter 1, title 62, of the Revised Statutes," was taken up, being the second special order for this morning, and passed by the following vote:

YEAS—18.

Chesley,	Johnson of Shelby,	Pfeuffer,
Collins,	Jones,	Pope,
Evans,	King,	Randolph,
Gibbs,	Kleberg,	Shannon,
Houston,	Matlock,	Stratton,
Johnson of Collin,	Perry,	Traylor.

NAYS—10.

Buchanan,	Getzendaner,	Patton,
Davis,	Harris,	Peacock,
Fleming,	Martin,	Terrell,
Fowler,		

House concurrent resolution No. 7, instructing our Senators and requesting our Representatives in Congress to vote against any tax on quinine, was taken up, read third time, and passed by the following vote:

YEAS—23.

Buchanan,	Gooch,	Patton,
Chesley,	Harris,	Pope,
Collins,	Houston,	Randolph,
Evans,	Johnson of Collin,	Shannon,
Fleming,	Johnson of Shelby,	Stratton,
Fowler,	Jones,	Terrell,
Getzendaner,	King,	Traylor.
Gibbs,	Matlock,	

NAYS—6.

Davis,	Martin,	Perry,
Kleberg,	Peacock,	Pfeuffer.

House concurrent resolution No. 5, "In regard to the Alamo, Goliad and Fannin's men," was taken up, with committee substitute. Substitute adopted and resolution adopted. The President appointed on said committee Senators Kleberg, Pope and Fleming.

House joint resolution No. 5, "making an appropriation for the settlement of the Robert Wilson claim," was taken up. Read third time, with substitute of committee.

Substitute adopted and bill passed.

On motion of Senator Farrar, regular order of business was suspended to take up Senate bill No. 193, "An act to provide for the improvement and repairs of the Lunatic Asylum, the enlargement of the asylum grounds, and to make an appropriation therefor."

Bill taken up and read second time.

Senator Terrell offered the following amendment:

Strike out all after the word "and," in line 15, and add the following: "an emergency that this act should take effect and be in force from and after its passage, and it is so enacted."

Adopted, and bill ordered engrossed.

On motion of Senator Farrar, rules were suspended to put bill on its third reading by the following vote:

YEAS—27.

Buchanan,	Gooch,	Peacock,
Chesley,	Harris,	Perry,
Collins,	Houston,	Pfeuffer,
Davis,	Johnson of Collin,	Pope,
Evans,	Johnson of Shelby,	Randolph,
Farrar,	Jones,	Shannon,
Fleming,	Kleberg,	Stratton,
Fowler,	Martin,	Terrell,
Getzendaner,	Matlock,	Traylor.
Gibbs,	Patton,	

NAYS—none.

Bill read third time and passed by the following vote:

YEAS—30.

Buchanan,	Gooch,	Patton,
Chesley,	Harris,	Peacock,
Collins,	Houston,	Perry,
Davis,	Johnson of Collin,	Pfeuffer,
Evans,	Johnson of Shelby,	Pope,
Farrar,	Jones,	Randolph,
Fleming,	King,	Shannon,
Fowler,	Kleberg,	Stratton,
Getzendaner,	Martin,	Terrell,
Gibbs,	Matlock,	Traylor.

NAYS—none.

Senator Kleberg moved to postpone regular order of business and take up Senate bill No. 177, "An act to amend article 575, chapter 3, title 20, of the Revised Statutes by adding thereto section 9."

Adopted, and bill taken up, read third time and passed.

House concurrent resolution No. 1, "Requesting the Senators and Representatives of the State of Texas at Washington to urge the establishment of a quarantine station, by the national government, at St. Louis Island, simi-

lar to that at Ship Island," was taken up in regular order and read the second time.

Senator Harris offered the following amendment:

Strike out the words "national government" where they occur and insert "government of the United States."

Adopted.

On motion of Senator Stratton, rules were suspended to put the resolution on its third reading by the following vote:

YEAS—27.

Buchanan,	Gooch,	Peacock,
Chesley,	Harris,	Perry,
Collins,	Johnston of Shelby,	Pfeuffer,
Evans,	Jones,	Pope,
Farrar,	King,	Randolph,
Fleming,	Kleberg,	Shannon,
Fowler,	Martin,	Stratton,
Getzendaner,	Matlock,	Terrell,
Gibbs,	Patton,	Traylor.

NAYS—none.

Bill read third time, and passed by the following vote:

YEAS—28.

Buchanan,	Harris,	Peacock,
Chesley,	Houston,	Perry,
Collins,	Johnston of Shelby,	Pfeuffer,
Evans,	Jones,	Pope,
Farrar,	King,	Randolph,
Fleming,	Kleberg,	Shannon,
Fowler,	Martin,	Stratton,
Getzendaner,	Matlock,	Terrell,
Gibbs,	Patton,	Traylor.

NAYS—none.

The following message was received from the House:

Mr. President:

I am instructed by the House to inform your honorable body that it has concurred in Senate amendments to substitute House bill No. 8, J. W. BOOTH, Chief Clerk.

Senator Terrell offered the following resolution:

Resolved, That the Sergeant-at-Arms of the Senate be directed to procure a new flag of the United States, and place the same on the flag-staff over the Capitol, the expense to be paid out of the contingent fund of the Senate.

Adopted.

On motion of Senator Kleberg, the Senate adjourned until to-morrow at 10 o'clock a. m.

TWENTY-FIFTH DAY.

SENATE CHAMBER,)
AUSTIN, TEXAS, February 7, 1883. {

The Senate met pursuant to adjournment. Lieutenant-Governor Martin in the chair.

Roll called. Quorum present.

Prayer by the Chaplain.

On motion of Senator Perry, the reading of the journal was dispensed with and same adopted.

Senator Fleming presented a petition from citizens of Brown county, asking the Legislature to pass a constitutional amendment prohibiting the importation, sale, or manufacture of intoxicating liquors as a beverage in Texas.

Referred to Committee on Constitutional Amendments.

Senator Pfeuffer, chairman of the Committee on Finance, submitted the following reports:

COMMITTEE ROOM,
AUSTIN, February 6, 1883.

Hon. Marion Martin, President of the Senate:

Your Committee on Finance, to whom was referred Senate bill No. 185, entitled "An act to remit the State taxes due the State of Texas from the county of Shelby to said county," have carefully examined

the same, and instruct me to report the same back with the recommendation that it do not pass.

All of which is respectfully submitted.

PFEUFFER, Chairman.

Bill read first time.

COMMITTEE ROOM,
AUSTIN, February 6, 1883.

Hon. Marion Martin, President of the Senate:

Your Committee on Finance, to whom was referred House bill No. 340, entitled "An act making an appropriation for the deficiency in the amount appropriated for public printing for year beginning February 28, 1882, and ending February 28, 1883," have carefully examined the same, and instruct me to report the same back with the recommendation that it do pass.

All of which is respectfully submitted.

PFEUFFER, Chairman.

Bill read first time.

COMMITTEE ROOM,
AUSTIN, February 6, 1883.

Hon. Marion Martin, President of the Senate:

Your Committee on Finance, to whom was referred Senate bill No. 156, entitled "An act to amend article 4705 of the Revised Statutes of the State of Texas," have carefully examined the same, and instruct me to report the same back with the recommendation that it do pass, with the following amendment: On line 9, page 2, strike out "one dollar" and insert "fifty cents."

All of which is respectfully submitted.

PFEUFFER, Chairman.

Bill read first time.

Senator Patton, for Committee on Judiciary No. 2, submitted the following report:

COMMITTEE ROOM,
AUSTIN, February 7, 1883.

Hon. Marion Martin, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate bill No. 209, entitled "An act to amend article 758 of the Code of Criminal Procedure of the State of Texas," have carefully examined the same, instruct me to report the same back with the recommendation that it do pass.

All of which is respectfully submitted.

PATTON, for Committee.

Bill read first time.

Senator Gooch, for Committee on Public Lands, submitted the following reports:

COMMITTEE ROOM,
AUSTIN, February 7, 1883.

Hon. Marion Martin, President of the Senate:

Your Committee on Public Lands have had under consideration Senate bill No. 128, entitled "An act to provide for leasing the common school lands of the State of Texas," and a majority instruct me to report it back, and recommend that it do pass.

It provides that the State Board of Education shall lease the land under such regulations as it may make; provided, that the land shall not be leased for less than three cents an acre, nor for terms longer than ten years; and agricultural lands shall be leased with a reservation that it may be sold at any time. The minimum price of the land for sale will doubtless be raised, and future sales will be less frequent. The school fund now owns more than thirty millions of acres of surveyed alternate sections—the most of it is in the grazing region, and in sparsely inhabited portions of the State. By leasing it until the country becomes settled, it will benefit the State, by supplementing very largely the annual available school fund. It will encourage stockraising, by affording an exclusive range at a reasonable cost. It will enable the State to retain control of the land, and dispose of it according to that policy that the wisdom of the future may dictate. The bill does not undertake to prescribe the details of leases, but remits all minor questions to the judgment and discretion of the Board of Education. They can incorporate such restrictions and requirements as experience may show are necessary for the public interest.

All of which is respectfully submitted.

GOOCH, Chairman.

Bill read first time.

COMMITTEE ROOM,
AUSTIN, February 7, 1883.

Hon. Marion Martin, President of the Senate:

Your Committee on Public Lands have had under consideration